

221039

STATE OF SOUTH CAROLINA

(Caption of Case)
IN RE:

South Carolina Electric & Gas Company's Request
for Approval of Demand Side Management Plan
Including a Demand Side Management Rate Rider
and Portfolio of Energy Efficiency

BEFORE THE
PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA

COVER SHEET

DOCKET

NUMBER: 2009 - 261 - E

(Please type or print)

Submitted by: E. Wade Mullins, III

SC Bar Number: 3525

Address: PO Box 61110
Columbia, SC 29260

Telephone: 803-252-7693

Fax: 803-254-5719

Other: _____

Email: wmullins@brunerpowell.com

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- ☐ Emergency Relief demanded in petition ☐ Request for item to be placed on Commission's Agenda expeditiously
- ☐ Other: _____

INDUSTRY (Check one)	NATURE OF ACTION (Check all that apply)			
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<input type="checkbox"/> Electric/Gas	<input type="checkbox"/> Agreement	<input type="checkbox"/> Memorandum	<input type="checkbox"/> Request for Certification	
<input type="checkbox"/> Electric/Telecommunications	<input type="checkbox"/> Answer	<input type="checkbox"/> Motion	<input type="checkbox"/> Request for Investigation	
<input type="checkbox"/> Electric/Water	<input type="checkbox"/> Appellate Review	<input type="checkbox"/> Objection	<input type="checkbox"/> Resale Agreement	
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<input type="checkbox"/> Transportation	<input type="checkbox"/> Discovery	<input checked="" type="checkbox"/> Prefiled Testimony	<input type="checkbox"/> Subpoena	
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<input type="checkbox"/> Water/Sewer	<input type="checkbox"/> Expedited Consideration	<input type="checkbox"/> Proposed Order	<input type="checkbox"/> Other:	
<input type="checkbox"/> Administrative Matter	<input type="checkbox"/> Interconnection Agreement	<input type="checkbox"/> Protest		
<input type="checkbox"/> Other:	<input type="checkbox"/> Interconnection Amendment	<input type="checkbox"/> Publisher's Affidavit		
	<input type="checkbox"/> Late-Filed Exhibit	<input type="checkbox"/> Report		

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BRUNER, POWELL, ROBBINS, WALL & MULLINS, LLC

ATTORNEYS AND COUNSELORS AT LAW

1735 ST. JULIAN PLACE, SUITE 200

POST OFFICE BOX 61110

COLUMBIA, SOUTH CAROLINA 29260-1110

TELEPHONE (803) 252-7693

FAX (803) 254-5719

WWW.BRUNERPOWELL.COM

JAMES L. BRUNER, P.A.
WARREN C. POWELL, JR., P.A.*
RONALD E. ROBBINS, P.A.
HENRY P. WALL, P.A.
E. WADE MULLINS, III, P.A.

BRIAN P. ROBINSON, P.A.
WESLEY D. PEEL, P.A.
JOEY R. FLOYD, P.A.
WILLIAM D. BRITT, JR., P.A.

LEAH EDWARDS GARLAND
BENJAMIN C. BRUNER

* Also Admitted in District of Columbia

January 7, 2010

AUTHOR'S E-MAIL:
WMULLINS@brunerpowell.com

VIA HAND DELIVERY

The Honorable Charles L.A. Terreni
Chief Clerk/Administrator
Public Service Commission of South Carolina
101 Executive Center Drive, Suite 100
Columbia, South Carolina 29210

**RE: Application of South Carolina Electric and Gas Company for the
Establishment and Approval of DSM Programs and Rate Rider
Docket No. 2009-261-E**

Dear Mr. Terreni:

Enclosed for filing please find the original and twenty-five (25) copies of the **Direct Testimony of Dennis W. Goins, Ph.D. on Behalf of CMC Steel South Carolina**. I have also enclosed an extra copy of the Testimony and would appreciate you file stamping the extra copy and returning it to me via courier. By copy of this letter, I am serving all parties of record. If you have any questions or need additional information, please do not hesitate to contact me.

With kind regards, I am

Very truly yours,



E. Wade Mullins, III

EWM/rdd
Enclosures

cc: Belton T. Zeigler, Esquire (w/enc.)
Catherine D. Taylor, Esquire (w/enc.)
Frank Knapp, Jr., Esquire (w/enc.)
J. Blanding Holman, IV, Esquire (w/enc.)
K. Chad Burgess, Esquire (w/enc.)
Lee E. Dixon, Esquire (w/enc.)

Mitchell Willoughby, Esquire (w/enc.)
Robert Guild, Esquire (w/enc.)
Scott Elliott, Esquire (w/enc.)
Shannon B. Hudson, Esquire (w/enc.)
Damon E. Xenopoulos, Esquire (w/enc.)

**BEFORE THE
SOUTH CAROLINA PUBLIC SERVICE COMMISSION**

In RE:)	
)	
South Carolina Electric & Gas)	Docket No. 2009-261-E
Company's Request for Approval of)	
Demand Side Management Plan)	
Including a Demand Side Management)	
Rate Rider and Portfolio of Energy)	
Efficiency Programs		

CERTIFICATE OF SERVICE

I hereby certify that on this 7th day of January, 2010, I served the **Direct Testimony of Dennis W. Goins, Ph.D. on Behalf of CMC Steel South Carolina** by regular mail, with sufficient postage affixed thereto and return address clearly marked, to the following addresses:

Belton T. Ziegler, Esquire
Lee E. Dixon, Esquire
Pope Ziegler, LLC
Post Office Box 11509
Columbia, SC 29211

K. Chad Burgess, Esquire
Catherine D. Taylor, Esquire
South Carolina Electric and Gas Company
1426 Main Street MC 130
Columbia, SC 29201

Shannon Bowyer Hudson, Esquire
Office of Regulatory Staff
1401 Main Street, Suite 900
Columbia, SC 29201

Scott Elliott, Esquire
Elliott & Elliott, PA
721 Olive Street
Columbia, SC 29205

Frank Knapp, Jr., Esquire
1717 Gervais Street
Columbia, SC 29201

J. Blanding Holman, IV, Esquire
Post Office Box 609
Charleston, SC 29402

Mitchell Willoughby, Esquire
Willoughby & Hoefer, PA
Post Office Box 8416
Columbia, SC 29202

Robert Guild, Esquire
314 Pall Mall
Columbia, SC 29201



Rita D. DeCarlis
Legal Assistant to E. Wade Mullins, III, Esquire
BRUNER, POWELL, ROBBINS, WALL & MULLINS, LLC
P.O. Box 61110
Columbia, South Carolina 29260
(803) 252-7693

**STATE OF SOUTH CAROLINA
BEFORE THE
SOUTH CAROLINA PUBLIC SERVICE COMMISSION**

DOCKET NO. 2009-261-E

**SOUTH CAROLINA ELECTRIC & GAS COMPANY'S
REQUEST FOR APPROVAL OF DEMAND SIDE
MANAGEMENT PLAN INCLUDING A DEMAND SIDE
MANAGEMENT RATE RIDER AND PORTFOLIO OF
ENERGY EFFICIENCY PROGRAMS**

**DIRECT TESTIMONY OF
DENNIS W. GOINS, PH.D.
ON BEHALF OF
CMC STEEL SOUTH CAROLINA**

January 7, 2010

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**STATE OF SOUTH CAROLINA
BEFORE THE
SOUTH CAROLINA PUBLIC SERVICE COMMISSION**

**SOUTH CAROLINA ELECTRIC & GAS COMPANY'S)
REQUEST FOR APPROVAL OF DEMAND SIDE)
MANAGEMENT PLAN INCLUDING A DEMAND SIDE)
MANAGEMENT RATE RIDER AND PORTFOLIO OF)
ENERGY EFFICIENCY PROGRAMS)**

Docket No. 2009-261-E

**DIRECT TESTIMONY OF
DENNIS W. GOINS, Ph.D.
ON BEHALF OF
CMC STEEL SOUTH CAROLINA**

INTRODUCTION AND QUALIFICATIONS

Q. PLEASE STATE YOUR NAME, OCCUPATION, AND BUSINESS ADDRESS.

A. My name is Dennis W. Goins. I operate Potomac Management Group, an economics and management consulting firm. My business address is 5801 Westchester Street, Alexandria, Virginia 22310.

Q. PLEASE DESCRIBE YOUR EDUCATIONAL AND PROFESSIONAL BACKGROUND.

A. I received a Ph.D. degree in economics and a Master of Economics degree from North Carolina State University. I also earned a B.A. degree with honors in economics from Wake Forest University. From 1974 through 1977 I worked as a staff economist at the North Carolina Utilities Commission (NCUC). During my tenure at the NCUC, I testified in numerous cases involving electric, gas, and telephone utilities on such issues as cost of service, rate design, intercorporate transactions, and load

1 forecasting. While at the NCUC, I also served as a member of the
2 Ratemaking Task Force in the national Electric Utility Rate Design Study
3 sponsored by the Electric Power Research Institute (EPRI) and the
4 National Association of Regulatory Utility Commissioners (NARUC).

5 Since 1978 I have worked as an economic and management consultant
6 to firms and organizations in the private and public sectors. My
7 assignments focus primarily on market structure, policy, planning, and
8 pricing issues involving firms that operate in energy markets. For example,
9 I have conducted detailed analyses of product pricing, cost of service, rate
10 design, and interutility planning, operations, and pricing; prepared
11 analyses related to utility mergers, transmission access and pricing, and the
12 emergence of competitive markets; evaluated and developed regulatory
13 incentive mechanisms applicable to utility operations; and assisted clients
14 in analyzing and negotiating interchange agreements and power and fuel
15 supply contracts. I have also assisted clients on electric power market
16 restructuring issues in Arkansas, New Jersey, New York, South Carolina,
17 Texas, and Virginia.

18 I have submitted testimony and affidavits and provided technical
19 assistance in more than 100 proceedings before state and federal agencies
20 as an expert in competitive market issues, regulatory policy, utility
21 planning and operating practices, cost of service, and rate design. These
22 agencies include the Federal Energy Regulatory Commission (FERC), the
23 Government Accountability Office, the First Judicial District Court of
24 Montana, the Circuit Court of Kanawha County, West Virginia, and
25 regulatory agencies in Alabama, Arizona, Arkansas, Colorado, Florida,
26 Georgia, Idaho, Illinois, Indiana, Kentucky, Louisiana, Maine, Maryland,
27 Massachusetts, Minnesota, Mississippi, New Jersey, New York, North
28 Carolina, Ohio, Oklahoma, South Carolina, Texas, Utah, Vermont,
29 Virginia, West Virginia, and the District of Columbia. Additional details

1 of my educational and professional background are presented in the
2 Appendix.

3 **Q. ON WHOSE BEHALF ARE YOU TESTIFYING IN THIS**
4 **PROCEEDING?**

5 **A.** I am testifying on behalf of CMC Steel South Carolina, a member of the
6 CMC Steel Group.

7 **Q. WHAT ASSIGNMENT WERE YOU GIVEN WHEN YOU WERE**
8 **RETAINED?**

9 **A.** I was asked to undertake two primary tasks:

- 10 1. Review the filing made by South Carolina Electric & Gas
11 Company (SCE&G) regarding its demand-side management
12 (DSM) programs and associated cost recovery and incentive
13 mechanisms.¹
- 14 2. Identify any major deficiencies in SCE&G's proposal, and suggest
15 recommended changes.

16 **Q. WHAT SPECIFIC INFORMATION DID YOU REVIEW IN**
17 **CONDUCTING YOUR EVALUATION?**

18 **A.** I reviewed SCE&G's filing, testimony, exhibits, and responses to requests
19 for information. I also reviewed information found on web sites operated
20 by the Commission, SCE&G and its parent—SCANA Corporation, and
21 selected state regulatory commissions. Finally, I reviewed selected
22 technical and regulatory documents regarding EE programs and payment
23 and incentive mechanisms.

¹ In its filing, SCE&G uses *DSM* to describe programs and measures that reduce demand and/or improve energy efficiency (EE). The term *DSM* is conventionally used to describe programs and measures that primarily focus on demand reduction, while *EE* is used to describe those that focus on reducing energy use through increased efficiency. In my testimony, I have adopted SCE&G's convention of using *DSM* to describe both types (*DSM* and *EE*) of programs and measures except

1 **CONCLUSIONS**

2 **Q. WHAT CONCLUSIONS HAVE YOU REACHED?**

3 **A.** On the basis of my review and evaluation, I have concluded the following:

- 4 1. In its filing, SCE&G asks the Commission to approve nine DSM
5 programs that it plans to offer South Carolina customers.² To
6 recover its DSM program costs—which will be amortized over 5
7 years, SCE&G also seeks the Commission’s approval to implement
8 a DSM rider to retail rates. The proposed DSM rider—which will
9 become effective with May 2010 billings—is structured to recover
10 not only DSM program costs, but also lost net margin revenue
11 associated with the DSM programs and a 300 basis-point return-
12 on-equity incentive applied to the deferred balance of SCE&G’s
13 DSM program costs. The DSM rider includes class-specific
14 surcharges to recover DSM program costs (both direct and indirect)
15 and lost net margin revenue assigned to each customer class.³
- 16 2. SCE&G projects that the total DSM revenue requirement for the
17 initial 12-month recovery period—December 2009 through
18 November 2010—will be approximately \$5.34 million. Of this
19 amount, only about \$289,000 (5.3 percent) represents recovery of
20 actual DSM expenses via the proposed 5-year amortization. The
21 remaining \$5.05 million (almost 95 percent) of the DSM revenue
22 requirement is accounted for by expected lost net sales margins
23 (\$4.01 million—75 percent) and the incentive rate of return (\$1.04
24 million—almost 20 percent).

in describing programs and measures offered by other utilities that separately identify DSM and EE offerings.

² My testimony does not address the reasonableness of the proposed programs, their cost-effectiveness, or alternative programs that SCE&G should offer. My silence on these issues should not be considered an endorsement of the programs, SCE&G’s program evaluation methods, or results from the program cost-effectiveness tests.

³ SCE&G’s proposed DSM rider includes surcharges for four customer classes: Residential, Small General Service (SGS), Medium General Service (MGS), and Large General Service (LGS).

- 1 3. Under South Carolina law (S.C. Code Ann. § 58-37-20), the
2 Commission may adopt procedures that encourage utilities to make
3 DSM investments. Such procedures—if adopted—must meet
4 specified criteria regarding cost recovery and incentives. SCE&G
5 contends that its proposed recovery of lost net margin revenue and
6 an incentive rate of return are consistent with this statute. In
7 particular, SCE&G claims that both measures are necessary to
8 remove a utility’s bias against DSM investments that reduce sales
9 and produce lower profits relative to supply-side investments.
10 However, SCE&G cites no state that has approved or adopted
11 electric utility DSM policies that allow both lost margin recovery
12 and an incentive rate of return applicable to unamortized program
13 cost balances.
- 14 4. The proposed DSM rider includes a provision under which an
15 eligible commercial or industrial customer can opt out of
16 participation in and cost responsibility for SCE&G’s DSM
17 programs. The DSM opt out is available only to customers that
18 meet minimum demand thresholds. In addition, opt-out customers
19 must certify in writing that they have conducted an energy
20 efficiency audit in the past 3 years and are implementing measures
21 that produce demand and energy savings at least equal to savings
22 anticipated under SCE&G’s DSM programs for the applicable
23 customer class. The Commission recently approved (Docket No.
24 2008-251-E) a simple, straightforward DSM/EE opt out for large
25 customers served by Progress Energy Carolinas (PEC). The PEC
26 opt out simply requires certification that a customer has
27 implemented or will implement alternative DSM/EE measures in
28 accordance with stated and quantifiable DSM and EE goals. A
29 similar opt-out provision has been included in a recently proposed

1 settlement for Duke Energy Carolinas (DEC) in Docket No. 2009-
2 226-E, which the Commission is now considering.

3 **RECOMMENDATIONS**

4 **Q. WHAT DO YOU RECOMMEND ON THE BASIS OF THESE**
5 **CONCLUSIONS?**

6 **A.** I recommend that the Commission:

7 1. Modify SCE&G's proposed DSM opt-out provision to bring it
8 more in line with the recently approved PEC opt out and the
9 recently proposed settlement opt out for DEC. At a minimum,
10 SCE&G's opt out should:

11 ■ Allow any customer that meets the proposed minimum load
12 thresholds (if applicable) to opt out if the customer certifies
13 that it has implemented or will implement alternative DSM
14 measures with stated and quantifiable energy-saving goals.⁴
15 This straightforward certification eliminates any need for
16 SCE&G's vague and ambiguous requirement that customer-
17 funded EE investments must be "at least equivalent in energy
18 and demand savings to those anticipated under the Company's
19 DSM program for the particular class."

20 ■ Require SCE&G to accept a customer's opt-out request
21 without right of refusal unless the customer fails to certify in
22 writing that it has undertaken or plans to undertake self-
23 directed DSM investments. Under its proposal as filed,
24 SCE&G can deny a customer's request to opt out—but the
25 conditions under which an opt-out request can be denied are
26 not specified. This provision gives SCE&G unnecessary and

⁴ SCE&G has proposed two DSM programs for customers eligible for opt out. These programs are the Commercial and Industrial Prescriptive program and the Commercial and Industrial Custom program.

- 1 unjustified leverage in contested contract and rate issues
2 involving large customers, since SCE&G could use its power
3 to deny opt out to force customer acquiescence on such issues.
- 4 2. Require SCE&G to amortize its DSM program costs (expenses)
5 over 10 years instead of 5 years as proposed. A longer amortization
6 would reduce the near-term rate impact on customers, and also
7 spread cost recovery to track program benefits that customers
8 receive in the future. The 10-year amortization would also be
9 consistent with the amortization period the Commission approved
10 for PEC's DSM/EE program costs in Docket No. 2008-251-E.
- 11 3. Reject SCE&G's proposed incentive rate of return. The incentive is
12 excessive—only one of the very few states that allow DSM rate-of-
13 return incentives has a higher incentive. In addition, the incentive is
14 asymmetrical—that is, SCE&G receives an incentive return on
15 every dollar it spends on DSM programs, but gives nothing back to
16 customers if the programs are unsuccessful in producing expected
17 demand and energy savings. In my opinion, the combination of lost
18 margin recovery and a carrying charge on unamortized DSM costs
19 equal to SCE&G's overall allowed rate of return should be
20 sufficient to encourage SCE&G to pursue cost-effective DSM
21 measures. As a result, I recommend that the Commission reject
22 SCE&G's proposed 300 basis point return on equity adder
23 incentive. However, if the Commission determines that a rate-of-
24 return incentive is appropriate, then I recommend initially setting
25 the incentive no higher than 100 basis points above SCE&G's
26 allowed return on equity. A higher ROE incentive should be
27 granted only if it is linked to performance targets for SCE&G's
28 DSM programs.
- 29 4. Limit the recovery period for lost net margin revenue associated
30 with DSM expenditures in a particular year (vintage) to three years

1 or until SCE&G's base rates are adjusted in a general rate case,
2 whichever time period is shorter. For example, if SCE&G's next
3 general rate case is in 2014, its recovery of lost net margin revenue
4 associated with DSM expenditures in 2010 would stop at the end of
5 the 2012 program year.⁵

6 CUSTOMER OPT OUT

7 **Q. ARE ANY OF SCE&G'S DSM PROGRAMS TARGETED AT**
8 **COMMERCIAL AND INDUSTRIAL CUSTOMERS?**

9 **A.** Yes. As I mentioned earlier, two of the nine DSM programs proposed by
10 SCE&G are targeted at commercial and industrial customers—the
11 Commercial and Industrial Prescriptive programs and the Commercial and
12 Industrial Custom program.

13 **Q. HOW DOES SCE&G ASSIGN COST RESPONSIBILITY FOR ITS**
14 **DSM PROGRAMS?**

15 **A.** SCE&G assigns DSM program costs to customer classes targeted by each
16 program, and then develops class-specific annual revenue requirements
17 and DSM rider surcharges. A class' annual assigned DSM program costs
18 include its share of the unamortized balance of total DSM expenses,
19 estimated class margin revenues lost as a result of DSM-induced
20 reductions in sales, and a return on the class' DSM deferred cost balance.
21 Class-specific DSM costs are divided by projected class kWh sales in the
22 12-month recovery period to determine the DSM rider surcharge for each
23 class.

⁵ For simplicity, this example ignores the December –November program year designation proposed by SCE&G and any over- or underrecovered balance of 2010 vintage lost net margin revenue in 2012.

1 **Q. SHOULD PARTICIPATION IN SCE&G’S DSM PROGRAMS BE**
2 **MANDATORY?**

3 **A.** No. Large customers that finance their own energy efficiency investments
4 should not be required to pay for SCE&G’s programs. In other words,
5 they should be allowed to opt out of SCE&G’s DSM programs and not be
6 subject to charges under the DSM rider.

7 **Q. WHY SHOULD LARGE CUSTOMERS BE ALLOWED TO OPT**
8 **OUT?**

9 **A.** Some large customers have in place or plan to install EE measures that
10 reduce their energy requirements. These customers—who are not being
11 compensated by other SCE&G ratepayers—should be allowed to opt out
12 of SCE&G’s DSM programs if they choose to do so. Their energy
13 efficiency investments produce system benefits just like programs that
14 SCE&G sponsors. Moreover, a mandatory requirement to pay for
15 SCE&G’s DSM programs ensures that some large customers will pay for
16 programs that directly compete with customer-supplied EE investment
17 capital. The customer—not SCE&G—knows best which energy
18 efficiency investments to make and should be allowed to choose how
19 available EE capital is spent. Finally, successful firms are always looking
20 for ways to reduce operating costs and improve profitability. If SCE&G’s
21 DSM programs offer the most cost-effective way of achieving these goals,
22 customers will not opt out.

23 **Q. IS AN OPT-OUT PROVISION COMPATIBLE WITH**
24 **MAXIMIZING BENEFITS TO SOCIETY?**

25 **A.** Yes. Choices firms face in deciding how to deploy available operating and
26 investment capital most effectively are not merely limited to decisions
27 about which investment is most energy-efficient. In the real world,
28 investments that reduce energy consumption compete with non-energy

1 investments that may produce greater social benefits. For example, using
2 available capital to expand production capacity and hire and train
3 additional workers may produce social benefits that far outweigh
4 incremental social benefits from reducing energy consumption. Utilities
5 that ignore these foregone incremental non-energy benefits in their DSM
6 and EE program evaluations simply overstate the cost-effectiveness of
7 their programs. Moreover, in my opinion, businesses—not the regulated
8 utility—are better-suited to improve energy efficiency in their particular
9 sector and make decisions on the most cost-effective ways to deploy
10 available business investment capital.

11 **Q. CAN MANDATORY PARTICIPATION AFFECT A FIRM'S**
12 **COMPETITIVE POSITION?**

13 **A.** Yes. Payments under mandatory program participation are essentially a
14 tax on a firm's energy consumption. This mandatory tax can adversely
15 affect the competitive position of a large customer relative to a competitor
16 that is not forced to pay an energy efficiency tax. I am aware of more than
17 a dozen states with utility-sponsored EE and DSM programs that allow
18 large commercial and industrial customers to opt out of participation in
19 and cost-responsibility for the programs. As a result, assuming all else
20 equal, not allowing SCE&G's large customers to opt out would put them
21 at a competitive disadvantage relative to competitors in states that allow
22 large customers to opt out.

23 **Q. IS AN OPT-OUT CUSTOMER A FREE RIDER?**

24 **A.** No. Opponents of opt-out provisions might argue that opt-out customers
25 are free riders since they are exempt from DSM rider surcharges.
26 However, a free-rider problem cannot exist if non-participants self-direct
27 their own cost-effective EE investments or use available capital to fund
28 investments with higher social benefits than SCE&G's DSM investments.

1 Moreover, if a free-rider problem existed, its effects would be mitigated by
2 the compensating effect of traditional embedded-cost ratemaking. That is,
3 classes that aggressively participate in the DSM programs will likely have
4 a lower percentage of SCE&G's total production costs allocated to them in
5 future rate cases relative to classes that do not aggressively participate. As
6 a result, participating classes may see lower rates relative to non-
7 participating classes in future years.

8 **Q. HAS THE COMMISSION PREVIOUSLY ADDRESSED OPT-OUT**
9 **ISSUES?**

10 **A.** Yes. In Docket No. 2008-251-E, the Commission approved an opt-out
11 provision for DSM and EE programs sponsored by PEC. The
12 Commission is currently considering a similar opt-out provision for DEC's
13 large customers in Docket No. 2009-226-E. I have included a copy of
14 PEC's required opt-out certification in Exhibit DWG-1, and a copy of the
15 proposed settlement opt-out provision for DEC's customers in Exhibit
16 DWG-2. The PEC opt-out provision has a minimum load threshold (1,000
17 MWh annually), but the DEC proposed settlement opt out does not. Both
18 provisions require written certification that the opt-out customer has
19 implemented or plans to implement energy efficiency investments. The
20 DEC settlement provision also requires an energy audit within three years
21 of the customer's opt out.

22 **Q. IN THE PEC CASE, DID THE COMMISSION SPECIFY REASONS**
23 **FOR APPROVING AN OPT OUT?**

24 **A.** Yes. In its final order in Docket No. 2008-251-E, the Commission said
25 (Order No. 2009-373 at 9):

26 Given that the incentive and opportunity already exists for large
27 commercial and industrial customers to invest in DSM/EE
28 programs even without the proposed DSM/EE Procedure, these

1 customers should be able to opt out upon notification to PEC
2 and not be required to contribute to the cost of the programs
3 being provided to those customers who have not made such
4 investments and are being provided incentives to do so by PEC.
5 Additionally, requiring large commercial and industrial
6 customers to fund PEC's DSM/EE programs could be
7 anticompetitive where a customer that already has its own
8 programs is being required to pay for PEC programs that are or
9 might be used by its competitors. Moreover, large customers
10 are simply not in a position to bear additional costs for EE and
11 DSM programs that do not apply to them...

12 **Q. HAS SCE&G PROPOSED AN OPT-OUT PROVISION?**

13 **A.** Yes. In its proposed DSM rate rider, SCE&G has included a provision
14 allowing customers that meet certain conditions to opt out of paying a
15 DSM rider surcharge. To qualify under this provision, an opt-out
16 customer must:

- 17 ■ Meet either of two minimum demand thresholds. More
18 specifically, a customer's average monthly demand in the
19 preceding 12 months must be 3,500 kW or greater for a single
20 location, or at least 6,500 kW for two non-contiguous
21 locations with each location having a minimum 100 kW
22 average demand.
- 23 ■ Certify in writing that it has conducted an energy efficiency
24 audit in the past 3 years and is implementing measures that
25 produce demand and energy savings at least equal to savings
26 anticipated under SCE&G's DSM programs for the applicable
27 customer class.

1 **Q. ARE REQUIREMENTS UNDER SCE&G’S PROPOSED OPT OUT**
2 **SIMILAR TO OPT-OUT PROVISIONS THAT YOU DESCRIBED**
3 **FOR PEC AND DEC?**

4 **A.** Yes. However, SCE&G’s proposed opt out provision includes two
5 troubling elements. In particular, SCE&G’s proposal:

- 6 ■ Requires an opt-out customer to certify in writing that it is
7 implementing self-financed measures that “are at least
8 equivalent in energy and demand savings to those anticipated
9 under the Company’s DSM program for the particular class.”
- 10 ■ Puts no restrictions on SCE&G’s authority to deny a
11 customer’s opt-out request.

12 **Q. SHOULD OPT-OUT CUSTOMERS BE EXEMPT FROM MAKING**
13 **ENERGY EFFICIENCY INVESTMENTS?**

14 **A.** No. Requiring an opt-out customer to certify that it has taken or plans to
15 undertake energy efficiency investments with stated and quantifiable
16 energy-saving goals may be both reasonable and justified. Both the PEC
17 and DEC opt-out provisions I have discussed have such a requirement.
18 However, linking opt out to equivalent anticipated demand and energy
19 savings under an applicable SCE&G DSM program is neither reasonable
20 nor justified. SCE&G has explicitly chosen not to set energy savings goals
21 for its DSM programs. If SCE&G is unwilling to set energy savings goals
22 for itself, it should not be allowed to set unspecified energy savings goals
23 and requirements for opt-out customers.

24 **Q. IS YOUR CONCERN ABOUT THE EQUIVALENT SAVINGS**
25 **ISSUE JUSTIFIED?**

26 **A.** Yes. I recognize that SCE&G says it has no plan to implement a formal
27 method to verify that an opt-out customer’s DSM investments produce

1 energy savings equivalent to its program offerings.⁶ However, SCE&G
2 also says that a customer will be ineligible for opt out if the customer is
3 unable to demonstrate energy and demand savings at least equivalent to
4 those anticipated under SCE&G's DSM programs.⁷

5 **Q. SHOULD THERE BE RESTRICTIONS ON SCE&G'S**
6 **AUTHORITY TO DENY A CUSTOMER'S OPT-OUT REQUEST?**

7 **A.** Yes. Under its proposal as filed, conditions under which SCE&G may
8 deny a customer's request to opt out are not specified. This omission
9 gives SCE&G unnecessary and unjustified:

- 10 ■ Discretion over a customer's right to opt out.
- 11 ■ Leverage in contested contract and rate issues involving large
12 customers, since SCE&G could use its power to deny opt out
13 to force customer acquiescence on such issues.

14 **Q. CAN THE PROBLEMS YOU CITE BE FIXED?**

15 **A.** Yes. The problems can be easily fixed by bringing SCE&G's opt-out
16 provision more in line with the PEC and DEC opt out provisions. More
17 specifically, SCE&G's opt out should be modified to:

- 18 ■ Allow any customer that meets the proposed minimum load
19 thresholds to opt out if the customer certifies that it has
20 implemented or will implement alternative DSM measures
21 with stated and quantifiable energy-saving goals. This
22 straightforward certification eliminates any need for SCE&G's
23 vague and ambiguous equivalent anticipated demand and
24 energy savings requirement.
- 25 ■ Require SCE&G to accept a customer's opt-out request
26 without right of refusal unless the customer fails to certify in

⁶ See SCE&G's response to Staff's First Audit Information Request 1-22 at Exhibit DWG-3. I have also included in this exhibit other selected responses by SCE&G to requests for information.

⁷ See SCE&G's response to CMC Steel's request for information 2-7 at Exhibit DWG-3.

1 writing that it has undertaken or plans to undertake self-
2 directed DSM investments. This provision is consistent with
3 both the PEC and DEC opt-out provisions.

4 **DSM COST AMORTIZATION**

5 **Q. HAS SCE&G PROPOSED DEFERRING RECOVERY OF ITS DSM**
6 **PROGRAM COSTS?**

7 **A.** Yes. SCE&G has proposed amortizing its DSM program costs over 5
8 years, the same amortization period the Commission previously approved
9 for its DSM investments in a 1996 rate case order.⁸

10 **Q. IN PEC'S RECENT DSM/EE CASE, DID THE COMMISSION**
11 **APPROVE A LONGER AMORTIZATION PERIOD?**

12 **A.** Yes. The Commission approved a 10-year amortization period in that
13 case.⁹ More specifically, the Commission approved the deferral and
14 amortization of DSM/EE program costs over 10 years with a carrying cost
15 equal to PEC's last Commission-approved overall return.

16 **Q. WHAT JUSTIFICATION DID THE COMMISSION GIVE FOR**
17 **APPROVING A 10-YEAR AMORTIZATION?**

18 **A.** In discussing the 10-year amortization, the Commission said:¹⁰

19 This method allows PEC to only recover its just and reasonable
20 costs and causes the rider to be much lower in the early years
21 than would be the case if all expenses were recovered in the
22 year incurred....This method is in the public interest because it
23 avoids higher rates in the early years of a program before PEC's
24 customers begin realizing program benefits.

⁸ See SCE&G's response to Staff First Audit Information Request 1-15 at Exhibit DWG-3.

⁹ See Docket No. 2008-251-E, Order No. 2009-373 at 26.

¹⁰ *Ibid.* at 22.

1 **Q. IS AN ROE ADDER A COMMON FINANCIAL INCENTIVE USED**
2 **IN DSM COST-RECOVERY MECHANISMS?**

3 **A.** No. Few states have adopted DSM financial incentives directed at a
4 utility's shareholders, and almost none has adopted an ROE adder
5 incentive applicable to deferred DSM program costs. Nevada is a rare
6 exception. Under Nevada's incentive mechanism, a utility books its
7 monthly DSM program costs in a separate account. At the utility's next
8 rate case, the balance of the DSM program costs—including carrying
9 charges based on the utility's overall allowed rate of return—are moved
10 into the utility's rate base. These rate-based costs are amortized over a
11 specified period, and the utility earns an incentive rate of return on the
12 unamortized balance. The incentive return equals the utility's allowed
13 return on equity plus 500 basis points (5 percent).¹¹ Nevada does not allow
14 recovery of lost margins resulting from the implementation of DSM
15 measures.¹²

16 **Q. IS SCE&G'S PROPOSED ROE INCENTIVE CONTINGENT ON**
17 **THE SUCCESS OF ITS DSM PROGRAMS IN ACHIEVING**
18 **ENERGY SAVINGS?**

19 **A.** No. SCE&G's proposal is designed solely for the benefit of shareholders
20 at the expense of ratepayers. That is, the incentive is asymmetrical—
21 SCE&G receives an incentive return on every dollar it spends on DSM
22 programs, but gives nothing back to customers if the programs are
23 unsuccessful in producing expected demand and energy savings. The real
24 incentive under SCE&G's proposal is to spend as much as possible on
25 DSM programs regardless of energy savings achieved.

¹¹ See Nevada Administrative Code 704.9523. The enabling statute is available at
<http://www.leg.state.nv.us/nac/NAC-704.html#NAC704Sec9523>.

¹² See Institute for Electric Efficiency, *State Energy Efficiency Regulatory Frameworks*,
Washington, DC, June 2009, at 2.

1 **Q. DO THE PEC AND DEC DSM/EE PROGRAMS YOU DISCUSSED**
2 **EARLIER INCLUDE FINANCIAL INCENTIVES?**

3 **A.** Yes. Both programs include a shared-savings incentive mechanism in
4 which the level of each company's incentive earnings is linked to the
5 performance of its DSM/EE programs. I am not endorsing either utility's
6 incentive mechanism—only pointing out that each mechanism is linked to
7 the performance of its DSM portfolio.

8 **Q. SHOULD A DSM INCENTIVE MECHANISM BE DESIGNED**
9 **SOLELY TO MAXIMIZE SHAREHOLDER BENEFITS?**

10 **A.** No. Any DSM incentive mechanism the Commission adopts should
11 balance the interests of both ratepayers and shareholders. In determining a
12 fair and reasonable DSM financial incentive for SCE&G, the Commission
13 may find useful two insights from a recent report from the Lawrence
14 Berkeley National Laboratory (LBNL):¹³

15 ...[I]t is reasonable to expect that utilities that are just starting
16 their energy efficiency efforts may need less of an incentive than
17 utilities with a longer history of energy efficiency efforts and
18 more aggressive savings targets.

19 ...[I]t may be appropriate to limit the availability of shareholder
20 incentives for energy efficiency to situations in which the utility
21 has committed to significant energy efficiency goals that will
22 produce significant net benefits to ratepayers and society.

¹³ See Peter Cappers, *et al.*, *Financial Analysis of Incentive Mechanisms to Promote Energy Efficiency: Case Study of a Prototypical Southwest Utility*, Lawrence Berkeley National Laboratory, Berkeley, California, March 2009, at 47.

1 **Q. DOES SCE&G HAVE A HISTORY OF AGGRESSIVE ENERGY**
2 **EFFICIENCY EFFORTS AND DSM SAVINGS TARGETS?**

3 **A.** No. SCE&G is just beginning to step up its non-rate DSM efforts. And
4 SCE&G explicitly refuses to set performance targets for its DSM
5 programs. Yet SCE&G is asking the Commission to approve one of the
6 country's most aggressive cost recovery and incentive packages for DSM
7 programs sponsored by an electric utility.

8 **Q. SHOULD THE COMMISSION APPROVE SCE&G'S PROPOSED**
9 **ROE ADDER INCENTIVE?**

10 **A.** No. The incentive is excessive, asymmetrical, and unnecessary. As I
11 noted earlier, the combination of lost margin recovery and a carrying
12 charge on unamortized DSM costs equal to SCE&G's overall allowed rate
13 of return should be sufficient to encourage SCE&G to pursue cost-
14 effective DSM measures. The Commission should reject SCE&G's
15 proposed 300 basis point return on equity adder incentive. However, if the
16 Commission determines that a rate-of-return incentive is appropriate, then
17 I recommend initially setting the incentive no higher than 100 basis points
18 above SCE&G's allowed return on equity. A higher ROE incentive
19 should be granted only if it is linked to performance targets for SCE&G's
20 DSM programs.

21 **Q. DO YOU HAVE ANY FINAL CONCERN THAT SHOULD BE**
22 **ADDRESSED?**

23 **A.** Yes. SCE&G has proposed recovery of lost net margin revenue to reflect
24 lost earnings associated with lower electricity sales resulting from its DSM
25 programs. In its recent decision regarding PEC's DSM costs, the
26 Commission indicated that allowing PEC to recover net lost revenues met
27 the Commission's obligation under S.C. Code Ann. § 58-37-20 to set rates
28 that ensure a utility's net income is not reduced simply because it offers

1 DSM/EE programs to customers.¹⁴ As a result, I am not objecting to
2 SCE&G's request to recover what it calls lost net margin revenue.

3 Under SCE&G's proposal, the mechanism to recover such margins will
4 be adjusted annually to reflect projected lost margins in the next recovery
5 period plus any over- or underrecovery of lost margins in the preceding
6 recovery period. In addition, the amount of net lost margins reflected in
7 the DSM rider will be reset each time SCE&G's base rates are changed in
8 a general rate case since new base rates will reflect DSM-related lost
9 margins. My concern is that under its proposal, SCE&G is allowed to
10 recover through the DSM rider lost margins associated with the
11 implementation of a particular DSM measure from the time it plans to
12 make the DSM expenditure (lost net margin revenue is forecast annually
13 based on expected market penetration of each DSM measures in a
14 projected recovery period) until base rates are adjusted in a general rate
15 case. This timing issue was addressed in the recent PEC case, in which the
16 Commission approved a settlement stipulation that said:

17 PEC will be allowed to recover net lost revenues for *three years*
18 from the installation of a measure as part of a DSM/EE
19 program, or until PEC's next general rate case when any lost
20 revenues are addresses, whichever time period is *shorter*.¹⁵
21 (Emphasis added.)

¹⁴ See Docket No. 2008-251-E, Order No. 2009-373 at 7.

¹⁵ *Ibid.* at 7, footnote 3.

1 **Q. SHOULD THE COMMISSION LIMIT THE PERIOD WHEN**
2 **SCE&G RECOVERS LOST NET MARGIN REVENUE**
3 **ASSOCIATED WITH DSM EXPENDITURES IN A PARTICULAR**
4 **YEAR?**

5 **A.** Yes. SCE&G should only be allowed to recover lost net margin revenue
6 associated with DSM expenditures in a particular year (vintage) for three
7 years, or until its base rates are adjusted in a general rate case, whichever
8 time period is shorter.

9 **Q. DOES THIS COMPLETE YOUR DIRECT TESTIMONY?**

10 **A.** Yes.

**STATE OF SOUTH CAROLINA
BEFORE THE
SOUTH CAROLINA PUBLIC SERVICE COMMISSION**

DOCKET NO. 2009-261-E

**SOUTH CAROLINA ELECTRIC & GAS COMPANY'S
REQUEST FOR APPROVAL OF DEMAND SIDE
MANAGEMENT PLAN INCLUDING A DEMAND SIDE
MANAGEMENT RATE RIDER AND PORTFOLIO OF
ENERGY EFFICIENCY PROGRAMS**

**EXHIBITS TO THE
DIRECT TESTIMONY OF
DR. DENNIS W. GOINS
ON BEHALF OF
CMC STEEL SOUTH CAROLINA**

January 7, 2010

EXHIBIT DWG-1

PROGRESS ENERGY CAROLINAS: OPT OUT

SC CUSTOMER OPT OUT TEMPLATE

Progress Energy Carolinas, Inc.
CSC - CIGS Team
PO Box 1771
Raleigh, NC 27602

Dear Progress Energy:

The purpose of this letter is to notify Progress Energy Carolinas (PEC) of our decision to not participate in the annual cost recovery rider for PEC's Demand-Side Management (DSM) and Energy Efficiency (EE) Programs. At our own expense, we have already implemented or will be implementing alternative DSM/EE measures, in accordance with stated, quantifiable goals for demand-side management and energy efficiency.

Therefore, we are requesting that the following PEC accounts (or list attached) be excluded from charges associated with PEC's DSM/EE programs:

PEC Account Number(s):

_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

We understand PEC will be informing the SC Public Service Commission of our decision to opt out these accounts.

Yours very truly,

Company Name: _____

Signed _____

Title: _____

Date: _____

EXHIBIT DWG-2

DUKE ENERGY CAROLINAS: PROPOSED SETTLEMENT OPT OUT

RIDER EE (SC)
ENERGY EFFICIENCY RIDER

APPLICABILITY (South Carolina Only)

Service supplied under the Company's rate schedules is subject to approved energy efficiency adjustments over or under the Rate set forth in the approved rate schedules for energy efficiency programs approved by the Public Service Commission of South Carolina (PSCSC).

GENERAL PROVISIONS

This Rider will recover the cost of Duke Energy Carolinas' Save-a-Watt ("SAW") energy efficiency and demand-side management programs, using the method approved by the PSCSC, for programs implemented over a 4 year period (*i.e.*, comprising four 12-month program years or "Vintage Years"). In each year this Rider will include components to recover revenue requirements related to demand-side management and energy efficiency programs implemented in that vintage, as well as lost revenues resulting from the energy efficiency programs. Lost revenues associated with each vintage will be recovered for 36 months upon implementation. As a result the Rider will continue beyond the 4 year period to fully recover lost revenues for programs in years 3 and 4.

Revenue requirements for SAW demand-side management programs will be determined on a system basis and allocated to South Carolina retail customers based on the class contribution to system retail peak demand. Revenue requirements for energy efficiency programs will be determined at a system level for both the residential and non-residential customer classes. Within each class, South Carolina retail amounts will be determined by an allocation based on the class contribution to retail sales.

The Rider will recover the cost of Duke Energy Carolinas' Interruptible Service and Stand-By Generator programs ("Existing DSM Programs") based on the cost of bill credits and amounts paid to customers participating on these programs ("Program Costs"). Revenue requirements will be determined on a system basis and allocated to SC retail customer classes based on the class contribution to system peak demand.

All allocation factors will be based on the Company's cost of service study and will exclude the amounts related to customers that elect to opt out of this Rider.

TRUE-UP PROVISIONS

Rider amounts for SAW programs will initially be determined based on estimated kW and kWh impacts related to expected customer participation in the programs, and will be true-up as actual customer participation and actual kw and kwh impacts are verified.

Participation true-ups: After the first year, the Rider will include a true-up of previous Rider amounts billed to reflect actual customer participation in the programs.

Measurement and verification true-up: EM&V activities and results will be included in a mid-term EM&V-based true-up process that will be reflected in Vintage Year 3 Rider EE collections. A final EM&V true-up reflected in Vintage Year 6 Rider EE collections will incorporate all EM&V studies completed since the mid-term EM&V true-up. EM&V results will include measure-level savings adjustments and net-to-gross analysis. In addition, the mid-term and final true-ups will incorporate the most recent EM&V results in the avoided cost true-up, the lost revenue true-up, and the earnings cap true-up.

Earnings cap true-up: In the sixth year a true up will be billed, if applicable, to refund amounts collected through the Rider in excess of the earnings cap, in accordance with the following levels of achievement and allowed return on investment.

Percentage Actual Target Achievement	Return on Investment Cap on Program Costs Percentage
>=90%	15%
80% to 89%	12%
60% to 79%	9%
< 60%	5%

Rider amounts for Existing DSM Programs initially will be estimated program costs for the calendar year and will be trued-up to actual a subsequent rider.

DETERMINATION OF ENERGY EFFICIENCY RIDER ADJUSTMENT

Energy Efficiency Adjustments (EEA) will be applied to the energy (kilowatt hours) billed of all rate schedules for each vintage as determined by the following formula:

EEA Residential (expressed as cents per kwh) = SAW Residential Adjustment + Existing DSM Residential Adjustment

SAW Residential Adjustment = Residential Avoided Cost Revenue Requirement + Residential Lost Revenues / Forecasted Residential kWh Sales for the Rider billing period

Where

Residential Avoided Cost Revenue Requirement = (Residential Demand Side Management Program Avoided Cost Revenue Requirement * 75%) + (Residential Energy Efficiency Program Avoided Cost Revenue Requirement * 55%)

And

Existing DSM Residential Adjustment = Non-SAW Residential Program Costs / Forecasted Residential kWh Sales for the Rider billing period

• EEA Non-residential (expressed as cents per kwh) = SAW Non-residential Adjustment + Existing DSM Non-residential Adjustment

SAW Non-residential Adjustment = Non-residential Avoided Cost Revenue Requirement + Non-residential Lost Revenues / Forecasted Non-residential kWh Sales (excluding opt out sales) for the Rider billing period

Where

Non-residential Avoided Cost Revenue Requirement = (Non-residential Demand Side Management Program Avoided Cost Revenue Requirement * 75%) + (Non-residential Energy Efficiency Program Avoided Cost Revenue Requirement * 55%)

And

Existing DSM Non-residential Adjustment = Non-SAW Non-residential Program Costs / Forecasted Non-residential kWh Sales (excluding opt out sales) for the Rider billing period

ENERGY EFFICIENCY RIDER ADJUSTMENTS (EEA)

As a result of the Commission's Order No. _____ in Docket No. 2009-226-E, the EEA applicable to the residential and nonresidential rate schedules for the period (date) through (date), including revenue-related taxes and utility assessments, are as follows:

<u>Residential</u>	<u>Nonresidential</u>
0.1736 ¢ per kWh	Energy Efficiency 0.0195¢ per kWh
	Demand-Side Management 0.0360¢ per kWh

OPT OUT PROVISION FOR QUALIFYING MANUFACTURING CUSTOMERS

The Nonresidential EEA increment applicable to energy efficiency programs and/or demand-side management programs will not be applied to the energy billed to the Customer under the applicable nonresidential rate schedule for Customers qualified to opt out of the programs where:

- The Customer attests or certifies to the Company that it has performed or had performed for it an energy audit or analysis within the three year period preceding the opt out request and has implemented or has plans for implementing the cost-effective energy efficiency measures recommended in that audit or analysis; and
- The Customer is served under an electric service agreement where the establishment is classified as a "manufacturing industry" by the Standard Industrial Classification Manual published by the United States Government, and where more than 50% of the electric energy consumption of such establishment is used for its manufacturing processes.

For Customers who elect to opt out of Energy Efficiency Programs, the following provisions also apply:

- Qualifying customers may opt out of the Company's energy efficiency programs each calendar year only during an annual two month enrollment period beginning January 1 and concluding March 1.
- Customers may not opt out of individual energy efficiency programs offered by the Company. The choice to opt out applies to the Company's entire portfolio of energy efficiency programs.

- If a customer participates in any vintage of energy efficiency programs, the customer, irrespective of future opt-out decisions, remains obligated to pay the remaining portion of the lost revenues for each vintage of efficiency programs in which the customer participated..

For Customers who elect to opt out of Demand Side Management Programs, the following provisions also apply:

- Qualifying customers may make a one-time election for the 4 year plan to opt out of the Company's demand-side management programs within 60 days after the effective date of new rates and charges approved by the PSCSC in Docket No. 2009-226-E.
- If a customer elects to participate in a demand-side management program, the customer may not subsequently choose to opt out of the program for the remaining term of the 4 year plan.

EXHIBIT DWG-3

SCE&G'S RESPONSES TO SELECTED RFIs

**SOUTH CAROLINA ELECTRIC & GAS COMPANY
CMC STEEL SOUTH CAROLINA'S FIRST SET OF
CONTINUING DATA REQUESTS
DOCKET NO. 2009-261-E**

REQUEST NO. 1-5

According to page 12 of SCE&G's Request for the Establishment and Approval of DSM Programs and Rate Rider, filed June 30, 2009, "SCE&G...will assess the likelihood that the customer will make the improvements even in the absence of an incentive from SCE&G." Explain how SCE&G will make this "assessment." Please include the criteria and benchmarks that SCE&G will employ in making this assessment.

RESPONSE NO. 1-5

The requirement referenced above applies to the Commercial and Industrial Custom program as proposed in the petition. When requests for incentives are made under that program, a SCE&G representative will review engineering information provided by the customer related to each measure that the customer proposes to implement. Included in the information about each measure will be data concerning the cost of the measure (including installation or other related costs), the anticipated energy and demand savings from the measure, the anticipated payback period and the estimated lifetime of the measure.

As with each of the proposed DSM programs indicated in the petition in this matter, the Commercial and Industrial Custom program is intended to provide incentives only where those incentives are reasonably likely to motivate customers to undertake measures which the customers would not otherwise undertake. Therefore, where the anticipated payback period is significantly shorter than the customer's actual maximum payback period, if known, or where the payback period is significantly shorter than reasonable industry standard at the time, then SCE&G may conclude that customer will proceed with the measure without the need for an incentive.

The maximum payback period may vary from time to time based on economic conditions, interest rates and the cost and availability of capital. The maximum payback period may also depend on customer-specific or industry-specific factors such as the degree to which energy efficiency is seen by the customer or industry as a competitive imperative, a future or emerging industry standard or requirement or equipment obsolescence and the internal cost of funds rate used by the customer to calculate the maximum payback period.

In administering the program, SCE&G representatives will use their knowledge of industry conditions and customer behavior to make assessments, often in dialogue with customers, and will base their decision to offer an incentive and the amount on their professional judgment, experience, and determination of the incentive level required to allow implementation of a proposed higher efficiency measure to align favorably with typical customer project evaluation parameters.

**SOUTH CAROLINA ELECTRIC & GAS COMPANY
CMC STEEL SOUTH CAROLINA'S FIRST SET OF
CONTINUING DATA REQUESTS
DOCKET NO. 2009-261-E**

REQUEST NO. 1-7

Why should the Commission "allow SCE&G the flexibility to modify, expand, amend, terminate and/or add any program to its suite of programs going forward without the requirement to seek prior Commission approval to do so" as proposed at pages 13-14 of SCE&G's Request for the Establishment and Approval of DSM Programs and Rate Rider?

RESPONSE NO. 1-7

SCE&G is asking that the Commission require it to provide the Commission and ORS with annual filings to update the results achieved by its DSM programs, and to allow oversight by the Commission and ORS of the costs of the programs and any changes in them. In the period between annual reviews, SCE&G seeks authorization to modify, expand, amend, terminate and/or add programs subject to review by the Commission and ORS in the annual review proceedings.

SCE&G believes that the requested flexibility to change programs between annual reviews is important to maximize the benefits of its DSM programs and to manage their costs. As SCE&G rolls out programs, it will gain important information about customers' actual interests, needs and responses. Based on that information, some programs may need to be restructured, and their terms or incentives may need to be revised. Other programs may prove more popular and beneficial than anticipated and may need to be expanded. Still others programs may prove to be less popular and beneficial than anticipated and may need to be limited or terminated. In addition, some programs may need to be changed over time as federal and other energy efficiency standards are tightened, and as economic conditions and customer behavior change.

SCE&G believes that it is in the best interest of its customers and the public generally that SCE&G be able to move quickly to respond to new information about customer responses and behavior, and to make the indicated changes in its DSM programs. SCE&G believes that requiring these program changes to be reviewed annually, after the fact, will strike the proper balance between flexibility and regulatory oversight, will allow for faster evolution of programs to meet customer needs, and will make for a more efficient and effective suite of programs in the long run.

**SOUTH CAROLINA ELECTRIC & GAS COMPANY
CMC STEEL SOUTH CAROLINA'S FIRST SET OF
CONTINUING DATA REQUESTS
DOCKET NO. 2009-261-E**

REQUEST NO. 1-8

Why should the Commission allow SCE&G the very incentive-heavy recovery proposed at page 14 of SCE&G's Request for the Establishment and Approval of DSM Programs and Rate Rider?

RESPONSE NO. 1-8

S.C. Code § 58-37-20 (Supp. 2008) provides that the Public Service Commission of South Carolina ("Commission") may adopt procedures that encourage electric utilities that are subject to the jurisdiction of the Commission to invest in cost-effective energy technologies and energy conservation programs. The statute also states that if the Commission adopts such procedures, these procedures must provide incentives and cost recovery for energy suppliers who invest in energy supply and end-use technologies that are cost-effective, environmentally acceptable, and reduce energy consumption or demand.

SCE&G has filed for a reasonable incentive adder that will enable the Company to continue to attract and maintain capital at reasonable rates to support the DSM program as well as traditional utility service.

**SOUTH CAROLINA ELECTRIC & GAS COMPANY
CMC STEEL SOUTH CAROLINA'S FIRST SET OF
CONTINUING DATA REQUESTS
DOCKET NO. 2009-261-E**

REQUEST NO. 1-9

Regarding the "Opt-Out Provision for Large Commercial and Industrial Customers", set forth at Exhibit 2 of SCE&G's Request for the Establishment and Approval of DSM Programs and Rate Rider, is SCE&G aware of the Opt-Out that was approved by the Commission in 2008-251-E? Why should the Opt-Out Provision approved in this docket differ from that approved in 2008-251-E?

RESPONSE NO. 1-9

SCE&G is aware of the Opt-Out that was approved by the Commission in 2008-251-E. SCE&G has proposed an Opt-Out provision to reflect its customer base and mix of residential, commercial and industrial customers. The currently proposed Opt-Out provision is based upon kW demand, which tends to have far less variability than kWh consumption, and requires a minimum eligibility requirement of 3500 kW in order to minimize the rate impacts to customers that do not elect to opt-out while maximizing potential energy and demand savings impact of the proposed Commercial and Industrial DSM programs. Other Opt-Out eligibility requirements for conducting an energy audit are consistent with SCE&G's objective of promoting increased energy efficiency and conservation among all customer classes.

**SOUTH CAROLINA ELECTRIC & GAS COMPANY
CMC STEEL SOUTH CAROLINA'S FIRST SET OF
CONTINUING DATA REQUESTS
DOCKET NO. 2009-261-E**

REQUEST NO. 1-10

Regarding the "Opt-Out Provision for Large Commercial and Industrial Customers", set forth at Exhibit 2 of SCE&G's Request for the Establishment and Approval of DSM Programs and Rate Rider, paragraph 5 states that a customer's request to opt-out may be "denied or discontinued". By whom would the customer's request be "denied or discontinued"? Also, what criteria, standards and benchmarks would be used in determining that a request should be "denied or discontinued"?

RESPONSE NO. 1-10

An SCE&G representative will make a determination regarding denial or discontinuance of a customer's request to opt-out of the Company's DSM programs. The criteria on which such a denial or discontinuance will be made will be based on an assessment of whether a customer has met all eligibility requirements as outlined in Exhibit 2, paragraphs 1 – 5. Customer eligibility will be reviewed by SCE&G on an annual basis.

**SOUTH CAROLINA ELECTRIC & GAS COMPANY
CMC STEEL SOUTH CAROLINA'S SECOND SET OF
CONTINUING DATA REQUESTS
DOCKET NO. 2009-261-E**

REQUEST NO. 2-1

Please explain in detail why SCE&G should be allowed an ROE incentive in addition to recovery of lost net margin revenue under its proposed DSM cost recovery rider.

RESPONSE NO. 2-1

In order to adequately compensate and encourage SCE&G to invest in and promote DSM programs, it is important to provide SCE&G with timely cost recovery of all DSM costs including recovery of net lost margin revenues and an incentive component for promoting such programs.

The recovery of program costs, net lost margin revenues and an incentive component is consistent with S.C. Code Ann. § 58-37-20. The recovery of net lost margin revenues is critical to ensuring that the net income of the Company is at least as high as the net income would have been if the DSM Program had not been offered to its customers. The return on equity incentive will enable the Company to continue to attract and maintain capital at reasonable rates to support the DSM Program as well as traditional utility service.

**SOUTH CAROLINA ELECTRIC & GAS COMPANY
CMC STEEL SOUTH CAROLINA'S SECOND SET OF
CONTINUING DATA REQUESTS
DOCKET NO. 2009-261-E**

REQUEST NO. 2-2

Please identify each utility known to SCE&G that has been allowed to earn an incentive ROE of 3 percentage points on its DSM programs in addition to recovering estimated lost net margin revenue.

RESPONSE NO. 2-2

SCE&G does not know how many utilities have been allowed to earn an incentive ROE of 3 percentage points on its DSM programs in addition to recovering estimated lost net margin revenue. However, it is SCE&G's understanding that the State of Nevada allows a bonus rate of return for demand-side management that is 5% higher than authorized rates of return for supply investments.

**SOUTH CAROLINA ELECTRIC & GAS COMPANY
CMC STEEL SOUTH CAROLINA'S SECOND SET OF
CONTINUING DATA REQUESTS
DOCKET NO. 2009-261-E**

REQUEST NO. 2-3

SCE&G's application implies that SCE&G will have sole responsibility for verifying annual energy savings achieved through its DSM programs. Why has SCE&G not proposed using an unbiased outside third party to measure and verify annual energy savings attributable to its DSM programs?

RESPONSE NO. 2-3

SCE&G has not yet determined whether to utilize a third party to measure and verify the annual energy savings attributable to its DSM programs versus making such an evaluation by utilizing intra-company resources or some combination of each approach. If the Company chooses to use internal resources, it will objectively, and without bias, measure and verify annual savings attributable to each DSM program. It is in the Company's best interest as well as the best interest of its customers that evaluation be performed to allow for the true measurement of the worth of any DSM program.

**SOUTH CAROLINA ELECTRIC & GAS COMPANY
CMC STEEL SOUTH CAROLINA'S SECOND SET OF
CONTINUING DATA REQUESTS
DOCKET NO. 2009-261-E**

REQUEST NO. 2-7

Referring to Exhibit 2. Section 3 of SCE&G's application, explain in detail what SCE&G proposes concerning an opt-out request if a customer's energy audit in the past 3 years did not identify energy and demand savings at least equivalent to those anticipated under the Company's DSM program for the applicable customer class.

RESPONSE NO. 2-7

A customer must meet all eligibility requirements identified in Exhibit 2 of SCE&G's Application. As such, if a customer is unable to demonstrate energy and demand savings at least equivalent to those anticipated under the Company's DSM programs, the customer will not be eligible to opt-out.

**SOUTH CAROLINA ELECTRIC & GAS COMPANY
OFFICE OF REGULATORY STAFF'S
FIRST AUDIT INFORMATION REQUEST
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REQUEST NO. 1-1

Please describe the Company's general approach for setting the rebate amounts specified for the programs proposed in the application. If the approach varies for different programs, please describe the approach used for each program.

RESPONSE NO. 1-1

The incentives were generally set at a level sufficient to buy down the participant's simple payback associated with the efficient measure's incremental cost to either 1 or 1½ years (depending on the customer class), constrained by a requirement that the incentives could not exceed 75% of the incremental cost and could not be less than 25% of the incremental cost. Where experience with other programs suggested that a different incentive may be appropriate, the incentives were adjusted to reflect such program experience. As noted in the filing, the incentives are illustrative and SCE&G expects to tailor its incentives as the program designs and qualifying measure lists are finalized and if program implementation experience suggests that greater or lesser incentives would be appropriate.

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REQUEST NO. 1-2

Please discuss the approaches that will be used to develop program rebates for the Commercial and Industrial Prescriptive and Custom programs, as no numerical rebates were specified for those programs in the application.

RESPONSE NO. 1-2

The prescriptive incentives will be set on a measure-by-measure basis based upon the Company's analysis of the anticipated electricity savings of each measure and its incremental costs (i.e., the cost of the efficient measure over and above the cost of the baseline measure). The incentive necessary to buy down the participant's payback of the efficient investment to approximately one or one and one half years will be calculated. The 75%/25% constraints discussed in the response to ORS 1-1 will be applied. Based on this a target incentive will be calculated. This target incentive will be evaluated on a measure-by-measure basis, considering factors such as (but not limited to): the number of customers adopting the efficient measure even in the absence of incentives, tax credits, complexity and newness of the technology, other benefits of the technology (such as contributions to the quality of service), potential diversity in the savings levels experienced by different customer types, other support services provided by the program, consistency between utility service territories, alignment with state, federal, or local programs, availability of manufacturer incentives, measure specific barriers to participation, and incentive levels that have proven successful in other jurisdictions. If necessary, the target incentive will be adjusted to reflect these considerations and a final incentive will be determined. Final incentives will be further validated to ensure that they are consistent with cost-effectiveness criteria and anticipated results.

Custom incentives will be calculated on a project-by-project basis based on the anticipated electricity savings and incremental costs. Incentives are currently not anticipated to exceed the value to SCE&G's system of the avoided kW demand, and will vary based upon the lifetime of the savings. Lesser incentives may be offered. Incentives may be structured on a per-kWh basis, a per kW basis, or a combination of per-kW and per-kWh.

When requests for incentives are made under the program, a SCE&G representative will review engineering information provided by the customer related to each measure that the customer proposes to implement. Included in the information about each measure will be data concerning the cost of the measure (including installation or other related costs), the anticipated energy and demand

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savings from the measure, the anticipated payback period and the estimated lifetime of the measure.

As with each of the proposed DSM programs indicated in the petition in this matter, the Commercial and Industrial Custom program is intended to provide incentives only where those incentives are reasonably likely to motivate customers to undertake measures which the customers would not otherwise undertake. Therefore, where the anticipated payback period is significantly shorter than the customer's actual maximum payback period, if known, or where the payback period is significantly shorter than reasonable industry standard at the time, then SCE&G may conclude that customer will proceed with the measure without the need for an incentive.

The maximum payback period may vary from time to time based on economic conditions, interest rates and the cost and availability of capital. The maximum payback period may also depend on customer-specific or industry-specific factors such as the degree to which energy efficiency is seen by the customer or industry as a competitive imperative, a future or emerging industry standard or requirement or equipment obsolescence and the internal cost of funds rate used by the customer to calculate the maximum payback period.

In administering the program, SCE&G representatives will use their knowledge of industry conditions and customer behavior to make assessments, often in dialogue with customers, and will base their decision to offer an incentive and the amount on their professional judgment, experience, and determination of the incentive level required to allow implementation of a proposed higher efficiency measure to align favorably with typical customer project evaluation parameters.

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REQUEST NO. 1-3

Why did the Company not propose a commercial and industrial new construction program, while proposing a residential new construction program (ENERGY STAR New Homes)?

RESPONSE NO. 1-3

The Company is open to considering a commercial and industrial new construction program in the future, particularly as the Company gains additional insights into the needs of commercial and industrial customers through the implementation of the programs that are currently proposed. However, the Company did not propose a commercial and industrial new construction program at this time for several reasons. Commercial and industrial customers contemplating new construction will be able to participate in both the commercial and industrial prescriptive program and the commercial and industrial custom program as they have been proposed in this proceeding. These programs will provide significant incentives for commercial and industrial customers to invest in high efficiency lighting, HVAC units, motors, and other equipment. The commercial and industrial custom program also allows incentives tailored to individual customer plans and needs, which is particularly useful when considering a new construction project.

In this regard, the cycle time for commercial and industrial projects can be 2-3 years or longer, and given current economic conditions, it is the Company's perception that few new commercial and industrial projects are presently in the early planning stages where programs like a commercial and industrial new construction program could have significant benefit. Furthermore, given the complexity of commercial and industrial new construction programs, it has been the experience of other program administrators that they are best rolled out after a provider has established a foundation for marketing energy efficiency programs through successfully implementing less difficult and less expensive programs for this market sector. For these reasons, the Company is not proposing a commercial and industrial new construction program at this time, but will continue to evaluate the potential to roll out such a program in the future.

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REQUEST NO. 1-7

Please provide the 'Measures Library' developed by Morgan Marketing Partners, as referenced on page 2 of Exhibit 1.

RESPONSE NO. 1-7

SCE&G will make the Measures Library available to the South Carolina Office of Regulatory Staff.

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REQUEST NO. 1-13

The Company's proposed energy and demand savings goals specified in Table 1 are cumulative values. The incremental savings goals for years two and three increase by approximately 20% per year. How did the Company develop its proposed program goals, and does the Company think that the proposed goals are the most that can be realistically and economically achieved in the programs' first three years?

RESPONSE NO. 1-13

The anticipated savings from the programs as proposed in this proceeding are an estimate of likely future benefits based on SCE&G's "bottom-up" evaluation of DSM potential on the Company's system and the program-by-program analysis of potential future benefit which underlies each of the programs proposed. The Company believes that the forecasted reductions in demand and energy represent a reasonable estimate of the results that may be achieved by these programs as proposed, but the actual results will depend on factors such as customer acceptance of the measures, economic conditions in the Company's service territory, the development and improvement in energy efficiency technologies, and other factors. The Company will continue to evaluate the results of its programs and will adjust its forecasts of anticipated savings from these programs, up or down, as conditions warrant.

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REQUEST NO. 1-15

The Company proposes to amortize its DSM program costs over a five year period, and to earn a 3% greater return on DSM investments than on supply-side investments. The SC PSC approved a DSM cost recovery mechanism for Progress Energy that amortizes program costs over a 10 year period. Please explain why the Company believes that its proposal is superior to that approved for Progress Energy.

RESPONSE NO. 1-15

The programs proposed by SCE&G are specific to the Company's system and customers and are designed to provide programs and incentives that encourage our customers to embrace energy efficiency and management of demand. Moreover, SCE&G has developed its programs and proposes to amortize the costs thereof over five years as previously approved by the Commission for the Company in Docket Number 95-1000-E, Order Number 96-15, pages 18-19.

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REQUEST NO. 1-16

Why does the Company propose to define lost margins due to DSM as equal to the electric revenue by rate schedule less fuel costs? In particular, please explain why other variable costs beyond fuel costs are not proposed to be included in the calculation.

RESPONSE NO. 1-16

Prudently incurred fuel costs are recovered under the Company's Fuel and Variable Environmental Cost Clause tariff for electric operations. If a DSM program reduces the Company's incurred fuel cost, then that reduction is a direct savings for the Company and its customers.

The Company refers to the remainder of its non-fuel electric revenue as margin. Margin revenue is used to fund the day-to-day operations of the Company including Other O&M (includes variable O&M), Taxes, Depreciation, Cost of Capital, etc. Other variable O&M costs are recovered as a component of non-fuel O&M in the Company's base rates.

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REQUEST NO. 1-17

In calculating lost net margin revenue, please define exactly what components would be in "fuel costs."

RESPONSE NO. 1-17

All costs associated with SCE&G's Adjustment for Fuel and Variable Environmental Costs Clause (Base and Environmental) would be considered "fuel costs."

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REQUEST NO. 1-18

In calculating net lost margins, the filing indicates that 'actual market penetration data' will be converted to MWH and used to predict net lost margins. How will the company assure that the actual market penetration for specific DSM measures is attributable to the DSM program and not other market forces?

RESPONSE NO. 1-18

The Company's evaluation, measurement, and verification ("EM&V") processes will be designed to isolate the net effect on participation due the Company's programs from participation occurring due to other market forces. For planning purposes, all programs have included a "net-to-gross" ratio that sets forth the Company's current best estimate of net participation based on the experience of its consultant with similar programs nationally. As the EM&V process yields updated estimates of net-to-gross ratios, such updated estimates will be used prospectively for all future cost-effectiveness and net lost margin calculations.

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REQUEST NO. 1-19

Please provide a 'mock example' (using figures and program dates) of the operations and calculations of the "Cost Recovery" components ('a' through 'd') in section 4 of Exhibit 1.

RESPONSE NO. 1-19

See attached.

SCE&G

DSM Rate Calculation Example

(Numbers used are for illustrative purposes only)

	Total	Residential	SGS	MGS	LGS
1) <u>Estimated Amortization Expense</u>					
- Projected DSM Account Balance @ 11/30/2009	\$ 3,500,000	\$ 2,400,000	\$ 370,000	\$ 240,000	\$ 490,000
÷ 5 Years = Annual Amortization Estimate	\$ 700,000	\$ 480,000	\$ 74,000	\$ 48,000	\$ 98,000
2) <u>Forecasted Lost Revenue</u>					
Estimate for 12/1/2009 through 11/30/2010	\$ 7,000,000	\$ 2,570,000	\$ 1,055,000	\$ 805,300	\$ 2,569,700
3) <u>Estimated Carrying Costs</u>					
For Period 12/1/2009 through 11/30/2010	\$ 1,500,000	\$ 900,000	\$ 200,000	\$ 150,000	\$ 250,000
4) <u>Annual Total Cost Estimate for Recovery</u>	\$ 9,200,000	\$ 3,950,000	\$ 1,329,000	\$ 1,003,300	\$ 2,917,700
5) <u>Projected Sales in GWH During First Rate Period</u>					
May, 2010 - April, 2011	23,000	8,500	3,500	2,500	8,500
6) <u>Estimated Rate per KWH</u>		\$ 0.00046	\$ 0.00038	\$ 0.00040	\$ 0.00034

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REQUEST NO. 1-21

Please discuss how the Company's proposed DSM opt-out provisions compare to common industry practices.

RESPONSE NO. 1-21

The Company believes that its proposed opt-out provisions represent an appropriate balancing of the interests of all parties. The continuum of opt-out provisions in the industry includes:

1. **None** – some states do not permit any customer classes (other than sales-for-resale) to opt-out of the programs and all customer classes share in both the cost of the programs and, typically, have an opportunity to participate in one or more programs.
2. **Comprehensive Demonstration** – some states require that customers wishing to opt-out must submit a detailed application that details the specific nature of all the projects they have or anticipate undertaking and requires periodic validation of progress against a goal.
3. **Simple Election** – some states require that customers simply submit a form letter indicating their desire to opt-out.

The Company's approach is a middle ground between the Comprehensive Demonstration and Simple Election opt out provisions stated above. It requires the customer to certify in writing that it has conducted an energy audit within the last three years and is implementing programs which will produce results that are at least equivalent to those that would be achieved under the Company's programs. The Company does not propose to audit or verify customer certifications.

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REQUEST NO. 1-22

Are there any provisions for verifying the "measures that are at least equivalent in energy and demand savings to those anticipated under the Company's DSM program for the applicable customer class" that are to be certified in writing – as stated in Exhibit 2?

RESPONSE NO. 1-22

At this time, the Company does not plan to implement any formal method of verifying equivalency, but will rely upon the customer's verification, as reviewed by SCE&G representatives.

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REQUEST NO. 1-23

What evaluation, measurement and verification (EM&V) does the company have planned for the portfolio of programs to assure that estimated savings are realized? It appears that the proposed incentive return is to be based solely on program costs, not performance in terms of MW/MWh reductions achieved, while net lost revenues are based in part on projected reductions in electricity sales. Is the company proposing to link EM&V results to incentives claimed?

RESPONSE NO. 1-23

The Company has budgeted 5 percent of program costs for EM&V. Program evaluation budgets nationwide range from 1 to 8 percent of program costs. The national average is approximately 3.5 to 4 percent. The Company anticipates that EM&V evaluations will use industry best practices to assess program savings. Such practices may include participant and non-participant surveys, billing analysis, unit metering, and other techniques as may be appropriate and cost effective.

The Company will use actual EM&V results in its prospective planning and lost net margin revenue calculations. The Company will apply EM&V results prospectively (as opposed to retroactively) to calculate lost net margin revenue. Any differences in the calculation of forecasted lost net margin revenue to actual will be reflected as an increase or decrease to the revenue required to be collected under the rate rider proposed in the prospective review period.

As EM&V data becomes available, it will be used to update the forecasted kW and kWh impacts of measures as set forth in the data library and will, therefore, be used in calculating lost net margin revenue in future periods.

APPENDIX

QUALIFICATIONS OF

DENNIS W. GOINS

DENNIS W. GOINS

PRESENT POSITION

Economic Consultant, Potomac Management Group, Alexandria, Virginia.

PREVIOUS POSITIONS

- Vice President, Hagler, Bailly & Company, Washington, DC.
- Principal, Resource Consulting Group, Inc., Cambridge, Massachusetts.
- Senior Associate, Resource Planning Associates, Inc., Cambridge, Massachusetts.
- Economist, North Carolina Utilities Commission, Raleigh, North Carolina.

EDUCATION

College	Major	Degree
Wake Forest University	Economics	BA
North Carolina State University	Economics	ME
North Carolina State University	Economics	PhD

RELEVANT EXPERIENCE

Dr. Goins specializes in pricing, planning, and market structure issues affecting firms that buy and sell products in electricity and natural gas markets. He has extensive experience in evaluating competitive market conditions, analyzing power and fuel requirements, prices, market operations, and transactions, developing product pricing strategies, setting rates for energy-related products and services, and negotiating power supply and natural gas contracts for private and public entities. He has participated in more than 100 cases as an expert on competitive market issues, utility restructuring, power market planning and operations, utility mergers, rate design, cost of service, and management prudence before the Federal Energy Regulatory Commission, the General Accounting Office, the First Judicial District Court of Montana, the Circuit Court of Kanawha County, West Virginia, and regulatory commissions in Alabama, Arizona, Arkansas, Colorado, Florida, Georgia, Hawaii, Idaho, Illinois, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Minnesota, Mississippi, New Jersey, New York, North Carolina, Ohio, Oklahoma, South Carolina, Texas, Utah, Vermont, Virginia, and the District of Columbia. He has also prepared an expert

DENNIS W. GOINS

report on behalf of the United States regarding pricing and contract issues in a case before the United States Court of Federal Claims.

PARTICIPATION IN REGULATORY, ADMINISTRATIVE, AND COURT PROCEEDINGS

1. Kauai Island Utility Cooperative, before the Hawaii Public Utilities Commission, Docket No. 2009-0050 (2010), on behalf of Kauai Marriott Resort & Beach Club, re retail cost allocation and rate design issues.
2. Entergy Arkansas, Inc., before the Arkansas Public Service Commission, Docket No. 09-024-U (2009), on behalf of Arkansas Electric Energy Consumers, Inc., re power plant environmental retrofit.
3. Appalachian Power Company, before the Virginia State Corporation Commission, Case No. PUE-2009-00030 (2009), on behalf of Steel Dynamics, Inc., re retail cost allocation and rate design issues.
4. Ohio Edison *et al.*, before the Public Utilities Commission of Ohio, Case No. 09-906-EL-SSO (2009), on behalf of Nucor Steel Marion, Inc., re market rate offer.
5. Dominion North Carolina Power, before the North Carolina Utilities Commission, Docket No. E-22, Sub 456 (2009), on behalf of Nucor Steel-Hertford, re fuel cost adjustment.
6. Appalachian Power Company, before the Virginia State Corporation Commission, Case No. PUE-2009-00068 (2009), on behalf of Steel Dynamics, Inc., re demand response programs.
7. Indiana Michigan Power Company, before the Indiana Utility Regulatory Commission, Cause No. 43750 (2009), on behalf of Steel Dynamics, Inc., re wind power purchased power agreement.
8. Entergy Arkansas, Inc., before the Arkansas Public Service Commission, Docket No. 07-085-TF (2009), on behalf of Arkansas Electric Energy Consumers, Inc., re energy efficiency cost recovery.
9. CenterPoint Energy Arkansas Gas, before the Arkansas Public Service Commission, Docket No. 07-081-TF (2009), on behalf of Arkansas Gas Consumers, Inc., re energy efficiency cost recovery.
10. South Carolina Electric & Gas Company, before the South Carolina Public Service Commission, Docket No. 2009-261-E (2009), on behalf of CMC Steel-SC, re DSM cost recovery surcharge.
11. Duke Energy Indiana, Inc., before the Indiana Utility Regulatory Commission, Cause No. 38707 FAC81 (2009), on behalf of Steel Dynamics, Inc., re fuel and purchased power cost recovery.

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12. Potomac Electric Power Company, before the District of Columbia Public Service Commission, Formal Case No. 1076 (2009), on behalf of the General Services Administration, re retail cost allocation and standby rate design issues for distributed generation resources.
13. Appalachian Power Company, before the Virginia State Corporation Commission, Case No. PUE-2009-00039 (2009), on behalf of Steel Dynamics, Inc., re environmental and reliability cost recovery.
14. Indiana Michigan Power Company, before the Indiana Utility Regulatory Commission, Cause No. 38702 – FAC 63 (2009), on behalf of Steel Dynamics, Inc., re fuel and purchased power cost recovery.
15. Appalachian Power Company, before the Virginia State Corporation Commission, Case No. PUE-2009-302-00038 (2009), on behalf of Steel Dynamics, Inc., re fuel and purchased power cost recovery.
16. South Carolina Electric & Gas Company, before the South Carolina Public Service Commission, Docket No. 2008-302-E (2008), on behalf of CMC Steel-SC, re fuel and purchased power cost recovery.
17. South Carolina Electric & Gas Company, before the South Carolina Public Service Commission, Docket No. 2008-196-E (2008), on behalf of CMC Steel-SC, re base load review order for a nuclear facility.
18. Ohio Edison *et al.*, before the Public Utilities Commission of Ohio, Case No. 08-935-EL-SSO *et al.* (2008), on behalf of Nucor Steel Marion, Inc., re standard service offer via an electric security plan.
19. Ohio Edison *et al.*, before the Public Utilities Commission of Ohio, Case No. 08-936-EL-SSO (2008), on behalf of Nucor Steel Marion, Inc., re market rate offer via a competitive bidding process.
20. Alabama Power Company, before the Alabama Public Service Commission, Docket No. 18148 (2008), on behalf of CMC Steel Alabama, Nucor Steel Birmingham, Inc., and Nucor Steel Tuscaloosa, Inc, re energy cost recovery.
21. Entergy Texas, Inc., before the Public Utilities Commission of Texas, PUC Docket No. 35269 (2008), on behalf of Texas Cities, re jurisdictional allocation of system agreement payments.
22. Duke Energy Indiana, Inc., before the Indiana Utility Regulatory Commission, Cause No. 43374 (2008), on behalf of Nucor Steel and Steel Dynamics, Inc., re alternative regulatory plan.
23. Entergy Gulf States Inc., before the Public Utilities Commission of Texas, PUC Docket No. 34800 (2008), on behalf of Texas Cities, re affiliate transactions.

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24. Commonwealth Edison Company, before the Illinois Commerce Commission, Docket No. 07-0566 (2008), on behalf of Nucor Steel Kankakee, Inc., re cost-of-service and rate design issues.
25. Ohio Edison *et al.*, before the Public Utilities Commission of Ohio, Case No. 07-0551-EL-AIR *et al.* (2008), on behalf of Nucor Steel Marion, Inc., re cost-of-service and rate design issues.
26. Appalachian Power Company dba American Electric Power, before the Public Service Commission of West Virginia, Case No. 06-0033-E-CN (2007), on behalf of Steel of West Virginia, Inc., re power plant cost recovery mechanism.
27. Oncor Electric Delivery Company and Texas Energy Future Holdings Limited Partnership, before the Public Utilities Commission of Texas, PUC Docket No. 34077 (2007), on behalf of Nucor Steel - Texas, re acquisition of TXU Corp. by Texas Energy Future Holdings Limited Partnership.
28. Arkansas Oklahoma Gas Company, before the Arkansas Public Service Commission, Docket No. 07-026-U (2007), on behalf of West Central Arkansas Gas Consumers, re gas cost-of-service and rate design issues.
29. Idaho Power Company, before the Idaho Public Utilities Commission, Case No. IPC-E-07-08 (2007), on behalf of the U.S. Department of Energy (Federal Executive Agencies), re cost-of-service and rate design issues.
30. Potomac Electric Power Company, before the District of Columbia Public Service Commission, Formal Case No. 1056 (2007), on behalf of the General Services Administration, re demand-side management and advanced metering programs.
31. South Carolina Electric & Gas Company, before the South Carolina Public Service Commission, Docket No. 2007-229-E (2007), on behalf of CMC Steel-SC, re cost-of-service and rate design issues.
32. Potomac Electric Power Company, before the Maryland Public Service Commission, Case No. 9092 (2007), on behalf of the General Services Administration, re retail cost allocation and standby rate design issues for distributed generation resources.
33. Potomac Electric Power Company, before the District of Columbia Public Service Commission, Formal Case No. 1053 (2007), on behalf of the General Services Administration, re retail cost allocation and standby rate design issues for distributed generation resources.
34. Entergy Gulf States Inc., before the Public Utilities Commission of Texas, PUC Docket No. 32907 (2006), on behalf of Texas Cities, re hurricane cost recovery.

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35. Entergy Gulf States Inc., before the Public Utilities Commission of Texas, PUC Docket No. 32710/ SOAH Docket No. 473-06-2307 (2006), on behalf of Texas Cities, re reconciliation of fuel and purchased power costs.
36. Florida Power & Light Company, before the Florida Public Service Commission, Docket No. 060001-EI (2006), on behalf of the U.S. Air Force (Federal Executive Agencies), re fuel and purchased power cost recovery.
37. Arizona Public Service Company, before the Arizona Corporation Commission, Docket No. E-01345A-05-0816 (2006), on behalf of the U.S. Air Force (Federal Executive Agencies), re retail cost allocation and rate design issues.
38. PacifiCorp (dba Rocky Mountain Power), before the Utah Public Service Commission, Docket No. 06-035-21 (2006), on behalf of the U.S. Air Force (Federal Executive Agencies), re rate design issues.
39. South Carolina Electric & Gas Company, before the South Carolina Public Service Commission, Docket No. 2006-2-E (2006), on behalf of CMC Steel-SC, re fuel and purchased power cost recovery.
40. Entergy Gulf States Inc., before the Public Utilities Commission of Texas, PUC Docket No. 31544/ SOAH Docket No. 473-06-0092 (2006), on behalf of Texas Cities, re transition to competition rider.
41. Idaho Power Company, before the Idaho Public Utilities Commission, Case No. IPC-E-05-28 (2006), on behalf of the U.S. Department of Energy (Federal Executive Agencies), re cost-of-service and rate design issues.
42. Alabama Power Company, before the Alabama Public Service Commission, Docket No. 18148 (2005), on behalf of SMI Steel-Alabama, re energy cost recovery.
43. Florida Power & Light Company, before the Florida Public Service Commission, Docket No. 050001-EI (2005), on behalf of the U.S. Air Force (Federal Executive Agencies), re fuel and capacity cost recovery.
44. Entergy Gulf States Inc., before the Public Utilities Commission of Texas, PUC Docket No. 31315/ SOAH Docket No. 473-05-8446 (2005), on behalf of Texas Cities, re incremental purchased capacity cost rider.
45. Florida Power & Light Company, before the Florida Public Service Commission, Docket No. 050045-EI (2005), on behalf of the U.S. Air Force (Federal Executive Agencies), re cost-of-service and interruptible rate issues.
46. Arkansas Electric Cooperative Corporation, before the Arkansas Public Service Commission, Docket No. 05-042-U (2005), on behalf of Nucor Steel and Nucor-Yamato Steel, re power plant purchase.

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47. Arkansas Electric Cooperative Corporation, before the Arkansas Public Service Commission, Docket No. 04-141-U (2005), on behalf of Nucor Steel and Nucor-Yamato Steel, re cost-of-service and rate design issues.
48. Dominion North Carolina Power, before the North Carolina Utilities Commission, Docket No. E-22, Sub 412 (2005), on behalf of Nucor Steel-Hertford, re cost-of-service and interruptible rate issues.
49. Public Service Company of Colorado, before the Colorado Public Utilities Commission, Docket No. 04S-164E (2004), on behalf of the U.S. Air Force (Federal Executive Agencies), re cost-of-service and interruptible rate issues.
50. CenterPoint Energy Houston Electric, LLC, *et al.*, before the Public Utility Commission of Texas, PUC Docket No. 29526 (2004), on behalf of the Coalition of Commercial Ratepayers, re stranded cost true-up balances.
51. PacifiCorp, before the Utah Public Service Commission, Docket No. 04-035-11 (2004), on behalf of the U.S. Air Force (United States Executive Agencies), re time-of-day rate design issues.
52. Arizona Public Service Company, before the Arizona Corporation Commission, Docket No. E-01345A-03-0347 (2004), on behalf of the U.S. Air Force (Federal Executive Agencies), re retail cost allocation and rate design issues.
53. Idaho Power Company, before the Idaho Public Utilities Commission, Case No. IPC-E-03-13 (2004), on behalf of the U.S. Department of Energy (Federal Executive Agencies), re retail cost allocation and rate design issues.
54. PacifiCorp, before the Utah Public Service Commission, Docket No. 03-2035-02 (2004), on behalf of the U.S. Air Force (United States Executive Agencies), re retail cost allocation and rate design issues.
55. Dominion Virginia Power, before the Virginia State Corporation Commission, Case No. PUE-2000-00285 (2003), on behalf of Chaparral (Virginia) Inc., re recovery of fuel costs.
56. Jersey Central Power & Light Company, before the New Jersey Board of Public Utilities, BPU Docket No. ER02080506, OAL Docket No. PUC-7894-02 (2002-2003), on behalf of New Jersey Commercial Users, re retail cost allocation and rate design issues.
57. Public Service Electric and Gas Company, before the New Jersey Board of Public Utilities, BPU Docket No. ER02050303, OAL Docket No. PUC-5744-02 (2002-2003), on behalf of New Jersey Commercial Users, re retail cost allocation and rate design issues.

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58. South Carolina Electric & Gas Company, before the South Carolina Public Service Commission, Docket No. 2002-223-E (2002), on behalf of SMI Steel-SC, re retail cost allocation and rate design issues.
59. Montana Power Company, before the First Judicial District Court of Montana, *Great Falls Tribune et al. v. the Montana Public Service Commission*, Cause No. CDV2001-208 (2002), on behalf of a media consortium (*Great Falls Tribune, Billings Gazette, Montana Standard, Helena Independent Record, Missoulian, Big Sky Publishing, Inc. dba Bozeman Daily Chronicle*, the Montana Newspaper Association, *Miles City Star, Livingston Enterprise, Yellowstone Public Radio, the Associated Press, Inc., and the Montana Broadcasters Association*), re public disclosure of allegedly proprietary contract information.
60. Louisville Gas & Electric *et al.*, before the Kentucky Public Service Commission, Administrative Case No. 387 (2001), on behalf of Gallatin Steel Company, re adequacy of generation and transmission capacity in Kentucky.
61. PacifiCorp, before the Utah Public Service Commission, Docket No. 01-035-01 (2001), on behalf of Nucor Steel, re retail cost allocation and rate design issues.
62. TXU Electric Company, before the Public Utilities Commission of Texas, PUC Docket No. 23640/ SOAH Docket No. 473-01-1922 (2001), on behalf of Nucor Steel, re fuel cost recovery.
63. FPL Group *et al.*, before the Federal Energy Regulatory Commission, Docket No. EC01-33-000 (2001), on behalf of Arkansas Electric Cooperative Corporation, Inc., re merger-related market power issues.
64. Entergy Mississippi, Inc., *et al.*, before the Mississippi Public Service Commission, Docket No. 2000-UA-925 (2001), on behalf of Birmingham Steel-Mississippi, re appropriate regulatory conditions for merger approval.
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